

AMENDED IN ASSEMBLY APRIL 9, 2012  
AMENDED IN ASSEMBLY MARCH 15, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2237**

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**Introduced by Assembly Member Monning**

February 24, 2012

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An act to amend Section 7026.1 of the Business and Professions Code, relating to contractors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2237, as amended, Monning. Contractors: definition.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law defines the term "contractor" to include, among others, any person or consultant to an owner-builder who undertakes, offers to undertake, or submits a bid to construct a building or home improvement project. Existing law requires applicants and licensed contractors to pay specified fees that are deposited into the continuously appropriated Contractors' License Fund. Under existing law, it is a crime for a person to act as a contractor without a license.

This bill would define the term "consultant" for purposes of the definition of a contractor to include a person who provides ~~or oversees~~ a bid, *or who* arranges for and sets up work schedules, ~~or and~~ maintains oversight of a construction project, *with respect to a home improvement contract*, as specified. Because consultants who provide the above-described services would be required to pay license fees which are deposited into the Contractors' License Fund, the bill would make

an appropriation. Because this bill would expand the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7026.1 of the Business and Professions  
2     Code is amended to read:  
3     7026.1. The term “contractor” includes all of the following:  
4     (a) Any person not exempt under Section 7053 who maintains  
5     or services air-conditioning, heating, or refrigeration equipment  
6     that is a fixed part of the structure to which it is attached.  
7     (b) (1) Any person, consultant to an owner-builder, firm,  
8     association, organization, partnership, business trust, corporation,  
9     or company, who or which undertakes, offers to undertake, purports  
10    to have the capacity to undertake, or submits a bid to construct  
11    any building or home improvement project, or part thereof.  
12    (2) For purposes of this subdivision, a consultant is a person,  
13    other than a public agency or an owner of privately owned real  
14    property to be improved, who meets ~~any~~ *either* of the following  
15    criteria *as it relates to work performed pursuant to a home*  
16    *improvement contract as defined in Section 7151.2:*  
17    (A) Provides or oversees a bid for a construction project.  
18    (B) Arranges for and sets up work schedules for contractors and  
19    subcontractors *and maintains oversight of a construction project.*  
20    ~~(C) Maintains oversight of a construction project.~~  
21    (c) A temporary labor service agency that, as the employer,  
22    provides employees for the performance of work covered by this  
23    chapter. The provisions of this subdivision shall not apply if there  
24    is a properly licensed contractor who exercises supervision in  
25    accordance with Section 7068.1 and who is directly responsible  
26    for the final results of the work. Nothing in this subdivision shall  
27    require a qualifying individual, as provided in Section 7068, to be  
28    present during the supervision of work covered by this chapter. A

1 contractor requesting the services of a temporary labor service  
2 agency shall provide his or her license number to that temporary  
3 labor service agency.

4 (d) Any person not otherwise exempt by this chapter, who  
5 performs tree removal, tree pruning, stump removal, or engages  
6 in tree or limb cabling or guying. The term contractor does not  
7 include a person performing the activities of a nursery person who  
8 in the normal course of routine work performs incidental pruning  
9 of trees, or guying of planted trees and their limbs. The term  
10 contractor does not include a gardener who in the normal course  
11 of routine work performs incidental pruning of trees measuring  
12 less than 15 feet in height after planting.

13 (e) Any person engaged in the business of drilling, digging,  
14 boring, or otherwise constructing, deepening, repairing,  
15 reperfoming, or abandoning any water well, cathodic protection  
16 well, or monitoring well.

17 SEC. 2. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.